

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

JOHN RAINES and TIM McGOUGH,
as Trustees of the Carpenters & Joiners
Welfare Fund, and JOHN RAINES as
Trustee of the Carpenters and Joiners
Apprenticeship and Journeymen Training
Trust Fund, and each of their successors,

Plaintiffs,

v.

MEMORANDUM OF LAW & ORDER
Civil File No. 19-61 (MJD/ECW)

KENNY WINGENDER, doing business
as BN Service Inc.,

Defendant.

Nathan Boone, Amanda R. Cefalu, and Andrew R. Shedlock, Kutak Rock LLP,
Counsel for Plaintiffs.

No appearance by Defendant.

I. INTRODUCTION

This matter is before the Court on Plaintiffs' Motion for Entry of Judgment.

[Docket No. 31]

II. BACKGROUND

The factual background and procedural history of this case is set forth in detail in the Court's August 28, 2019 Order. [Docket No. 24]

In the August 28 Order, the Court granted Plaintiffs' motion for entry of default and found that Defendant was liable to Plaintiffs in the amount of \$1,916.92, which represents liquidated damages of \$1,644.84 and interest of \$252.08 for the months of August 2018 through January 2019. The Court ordered Defendant to produce fringe fund reports and make fringe fund contributions to Plaintiffs for the period of February 2019 through the date of the Order, August 28, 2019. The Court further provided that, upon Defendant's submission of all outstanding fringe fund reports due for the months of February 2019 through August 28, 2019,

if Defendant fails to make the payments required by this Order, Plaintiffs may move the Court for entry of a money judgment for all unpaid contributions owed pursuant to reports submitted from August 2018 through the date of this Order, including liquidated damages, interest, and reasonable attorney fees and costs, as shown by Affidavit filed with the Court, and the Court shall enter judgment fourteen (14) days after service of the motion and affidavit on Defendant.

Defendant then submitted fringe fund reports showing contribution obligations of \$20,681.70 for February 2019 through August 2019. (Supp. Wilson Aff. ¶ 8.) Defendant submitted fringe benefit contributions of \$20,681.70. (Id. ¶

9.) However, Defendant did not submit payment for the liquidated damages or interest for the period of August 2018 through January 2019, nor liquidated damages for the period February 2019 through July 2019. (Id. ¶ 10.) Nor has Defendant submitted payment for any attorney's fees or costs related to this case. (Id. ¶ 12.)

On November 18, 2019, Plaintiffs filed the current Motion for Entry of Judgment seeking entry of a money judgment against Defendant in the amount of \$6,986.79, which represents \$3,353.60 in liquidated damages, \$3,381.11 in attorney's fees and costs, and \$252.08 in interest. The request is based upon the Affidavit of Nathan T. Boone and the Supplemental Affidavit of James Wilson. [Docket Nos. 32-33] The motion and accompanying filings were served on Defendant by U.S. mail on October 22, 2019. [Docket No. 35] Defendant has filed no response.

The Court has carefully reviewed Plaintiffs' motion and the supporting affidavits and concludes that the attorney's fees and costs requested are reasonable and supported by the record. The record further supports the requested award of liquidated damages and interest.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

HEREBY ORDERED:

1. Plaintiffs' Motion for Entry of Judgment [Docket No. 31] is **GRANTED.**
2. Judgment shall be entered against Defendant Kenny Wingender, d/b/a BN Service, Inc., in the amount of \$ 6,986.79, which represents liquidated damages of \$3,353.60, interest of \$252.08, and attorney's fees and costs of \$3,381.11.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 11, 2019

s/ Michael J. Davis

Michael J. Davis

United States District Court